

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

LARRY AYERS WILKE,)
)
Plaintiff,)
)
v.) CIVIL ACT. NO. 2:19-cv-400-ECM
) (WO)
TROY REGIONAL MED. CTR., *et al.*,)
)
Defendants.)

OPINION and ORDER

On March 10, 2020, the Magistrate Judge entered a Recommendation (doc. 13) which recommends that this case be dismissed without prejudice for the Plaintiff's abandonment of his claims, his failure to prosecute this action, and his failure to abide by the orders of this Court. On March 26, 2020, the Plaintiff filed objections to the Recommendation. (Docs. 14 & 15).

When a party objects to a Magistrate Judge's Report and Recommendation, the district court must review the disputed portions *de novo*. 28 U.S.C. § 636(b)(1). The district court "may accept, reject, or modify the recommended disposition; receive further evidence; or resubmit the matter to the magistrate judge with instructions." FED.R.CIV.P. 72(b)(3). *De novo* review requires that the district court independently consider factual issues based on the record. *Jeffrey S. ex rel. Ernest S. v. State Bd. of Educ.*, 896 F.2d 507, 513 (11th Cir. 1990). *See also United States v. Gopie*, 347 F. App'x 495, 499 n.1 (11th Cir. 2009). However, objections to the Magistrate Judge's Report and Recommendation must

be sufficiently specific in order to warrant *de novo* review. *See Macort v. Prem, Inc.*, 208 F. App'x 781, 783-85 (11th Cir. 2006). Otherwise, a Report and Recommendation is reviewed for clear error. *Id.*

The Court has reviewed the Plaintiff's objections wherein he reiterates his complaints against numerous defendants. He refers the Court to other cases and to documents filed on the Court's PACER system. The Plaintiff's objections largely mirror his complaint, they lack specificity, and he has not identified any factual or legal bases in support of his objections. Although the Plaintiff attempts to re-state his allegations, those attempts fail for the same reasons set forth by the Magistrate Judge in the Report and Recommendation. Even if the Plaintiff had succeeded in sufficiently clarifying his claims in his objections, he may not now amend his complaint by raising new claims in his objections to the recommendation of the Magistrate Judge. *See Gilmour v. Gates, & Co.*, 382 F.3d 1312, 1315 (11th Cir. 2004) (citation omitted); *Dukes v. Deaton*, 852 F.3d 1035, 1046 (11th Cir. 2017). Reviewing the Report and Recommendation for clear error, the Court concludes that the record supports the Magistrate Judge's findings and conclusions of law. Accordingly, for the reasons as stated and for good cause, it is

ORDERED as follows:

1. the Plaintiff's objections (docs. 14 & 15) are OVERRULED;
2. the Recommendation of the Magistrate Judge is ADOPTED;
3. this case is DISMISSED without prejudice as to Defendants Christian Lukjan, Judge Dunn, Randall Barr, Pike Co. Mental Health, Craig Maddox, Dr. Strunk

and Office Asst. Valerie for the Plaintiff's abandonment of his claims, his failure to prosecute, and his failure to comply with the orders of the Court;

4. Defendant Troy Regional Medical Center's Motion to Dismiss (doc. 7) is GRANTED and the case against it is DISMISSED without prejudice;

5. Defendant Troy Regional Medical Center's Motion to Dismiss (doc. 11) and Motion for Protective Order (doc. 12) are DENIED as moot; and

6. this case is DISMISSED without prejudice.

A separate Final Judgment will be entered.

Done this 31st day of March, 2020.

/s/ Emily C. Marks
EMILY C. MARKS
CHIEF UNITED STATES DISTRICT JUDGE